

OUTAGAMIE COUNTY RECYCLING ORDINANCE

13.11 Outagamie County Recycling Ordinance (Purpose): The purpose of this Ordinance is to promote and/or require recycling, composting and resource recovery through the administration of an effective recycling program, as provided in s. 159.11, Wis. Stats., and Chapter NR544, Wis. Administrative Code.

(1) Statutory Authority. This ordinance is adopted as authorized under s.159.09 (3) (b), Wis. Stats., and s. 59.07 (64), Wis. Stats.

(2) Abrogation and Greater Restriction. It is not intended by this ordinance to repeal, abrogate, annul, impair or interfere with any existing rules, regulations, ordinances or permits previously adopted or issued pursuant to law. However, whenever this ordinance imposes greater restrictions, the provisions of this ordinance shall apply.

(3) Interpretation. In interpretation and application hereof, the provisions of this ordinance shall be held to be minimum requirements and shall not be deemed a limitation or repeal of any other power granted by the Wisconsin Statutes. Where any terms or requirements of this ordinance may be inconsistent or conflicting, the more restrictive requirements or interpretations shall apply. Where a provision of this ordinance is required by Wisconsin Statutes, or by a standard in Chapter NR 544, Wis. Administrative Code, and where the ordinance provision is unclear, the provisions shall be interpreted in light of the Wisconsin Statutes and the Chapter NR 544 standards in effect on the date of adoption of this ordinance, or in effect on the date of amendment thereto.

(4) Severability. Should any portion of this ordinance be declared unconstitutional or invalid by a court of competent jurisdiction, the remainder of this ordinance shall not be affected.

(5) Applicability. The requirements of this ordinance apply to all persons, residents and/or property owners within the jurisdictional boundaries of Outagamie County; and, those business entities and/or municipal entities contracting from time to time with Outagamie County for pickup of recyclable materials. Such business entities and/or municipal entities shall, for purposes of definition hereunder, be called "Non-Residential Facilities and/or Properties".

The requirements of this ordinance shall also apply to all persons, residents and/or property owners and/or business entities and/or municipal entities where the same are located within the City of Appleton, that portion thereof located in Calumet County, the City of Appleton, that portion thereof located in Winnebago County, and the City of New London, that portion located in Waupaca County.

(6) Administration and Enforcement. The provisions of this ordinance shall be administered and/or enforced by the Outagamie County Solid Waste Divisions of the Outagamie County Highway Department (hereinafter called the "Solid Waste Division").

(A) Nothing herein contained shall prohibit Outagamie County, through the Solid Waste Division, from contracting with a Municipality located within Outagamie County for the Municipality to enforce this ordinance on behalf of Outagamie County and the Municipality.

(B) Nothing contained herein shall prohibit a municipality located within Outagamie County from adopting this ordinance by reference to its terms, conditions and provisions hereof and enforcing the same through that municipality's Municipal Court.

(7) Effective Date. This ordinance shall be in effect from and after the date of July 1, 1994.

(8) Definitions. For the purpose of this ordinance:

(A) "Bi-metal container" means a container for carbonated or malt beverage that is made primarily of a combination of steel and aluminum.

(B) "Container board" means corrugated paperboard used in the manufacture of shipping containers and related products.

(C) "Foam polystyrene packaging" means packaging made primarily from foam polystyrene that satisfies one of the following criteria:

(i) Is designed for serving food or beverages.

(ii) Consists of loose particles intended to fill space and cushion the packaged article in a shipping container.

(iii) Consists of rigid materials shaped to hold and cushion the packaged article in a shipping container.

(D) "HDPE" means high density polyethylene.


(E) "LDPE" means low density polyethylene.

(F) "Magazines" means magazines and other materials printed on similar paper.

(G) "Major appliance" means a residential or commercial air conditioner, clothes dryer, clothes washer, dishwasher, freezer, oven, refrigerator, hot water heater or stove.

(H) "Multiple-family dwelling" means a property containing 5 or more residential units, including those which are occupied seasonally.

(I) "Newspaper" means a newspaper and other materials printed on newsprint.

- (J) "Non-residential facilities and properties" means a commercial, retail, industrial, institutional and governmental facility and properties. This term does not include multiple family dwellings.
- (K) "Office paper" means high grade printing and writing papers from offices in non-residential facilities and properties. Printed white ledger and computer printout are examples of office paper generally accepted as high grade. This term does not include industrial process waste.
- (L) "Other resins or multiple resins" means plastic resins.
- (M) "Person" includes any individual, corporation, partnership, association, local governmental unit, as defined in s. 66.299 (1)(a), Wis. Stats., state agency or authority or federal agency.
- (N) "PETE" means polyethylene terephthalate.
- (O)  "Plastic container" means an individual, separate, rigid plastic bottle, can, jar or carton, except for a blister pack, that is originally used to contain a product that is the subject of a retail sale.
- (P) "Postconsumer waste" means solid waste other than solid waste generated in the production of goods, hazardous waste, as defined in s. 144.61(5), Wis. Stats., waste from construction and demolition of structures, scrap automobiles, or high volume industrial waste, as defined in s 144.44(7)(a)1., Wis. Stats.
- (Q) "PP" means polypropylene.
- (R) "PS" means polystyrene.
- (S) "PVC" means polyvinyl; chloride.
- (T) "Recyclable materials" includes lead acid batteries; major appliances; waste oil; yard waste; aluminum containers; corrugated paper or other container board foam polystyrene packaging; glass containers; magazines; newspaper; office paper; rigid plastic containers, including those made of PETE, HDPE, PVC, LDPE, PP, PS and other resins or multiple resins, steel containers; waste tires; and bi-metal containers.
- (U) "Solid waste" has the meaning specified in s. 144.01(15), Wis. Stats.
- (V) "Solid waste facility" has the meaning specified in s. 144.43(5), Wis. Stats.
- (W) "Solid waste treatment" means any method, technique or process which is designed to change the physical, chemical or biological character of composition of solid waste. "Treatment" includes incineration.

- (X) "Waste tire" means a tire that is no longer suitable for its original purpose because of wear, damage or defect.
- (Y) "Yard waste" means leaves, grass clippings, yard and garden debris and brush, including clean woody vegetative material no greater than 6 inches in diameter. This term does not include stumps, roots or shrubs with intact root balls.

(9) Separation of Recyclable Materials. Occupants of single family and 2 to 4 units residences, multiple-family dwellings and non-residential facilities and/or properties shall separate the following materials from postconsumer waste:

- (A) Lead acid batteries
- (B) Major appliances
- (C) Waste oil
- (D) Yard waste
- (E) Aluminum containers
- (F) Bi-metal containers
- (G) Corrugated paper or other container board
- (H) Foam polystyrene packaging
- (I) Glass containers
- (J) Magazines
- (K) Newspaper
- (L) Office paper
- (M) Rigid plastic containers made of PETE, HDPE, PVC, LDPE, PP, PS and other resins or multiple resins
- (N) Steel containers
- (O) Waste tires

Reference non-residential facilities and/or properties, as to the owners thereof, where the same are further leased to individual occupants thereof (for example, strip-malls), the owner thereof shall provide, unless otherwise excused by Outagamie County, for a central collection area for recyclable materials, at which central collection area the lease occupants shall deposit all recyclable materials according to the terms and conditions of this ordinance. The

failure of the owner to provide the central collection site/area shall be a violation of this ordinance and shall be enforced according to the penalty provisions set forth at Section (25), "Enforcement", hereof.

(10) Separation Requirements Exempted. The separation requirements of s. 13.11(9) do not apply to the following:

- (A) Occupants of single family and 2 to 4 unit residences, multiple-family dwellings and non-residential facilities and/or properties that send their postconsumer waste to a processing facility licensed by the Wisconsin Department of Natural Resources that recovers the materials specified in s. (9) from solid waste in as pure a form as is technically feasible.
- (B) Solid waste which is burned as a supplemental fuel at a facility if less than 30% of the heat input to the facility is derived from the solid waste burned as supplemental fuel.
- (C) A recyclable material specified in s. 13.11(9) (E) through (O) for which a variance has been granted by the Department of Natural Resources under s. 159.11(2m), Wis. Stats., or s. NR 544.14, Wis. Administrative Code.

(11) Care of Separated Recyclable Materials. To the greatest extent practicable, the recyclable materials separated in accordance with s. 13.11(9) shall be clean and kept free of contaminants such as food or product residue, oil or grease, or non-recyclable materials, including but not limited to household hazardous waste, medical waste, and agricultural chemical containers. Recyclable materials shall be stored in a manner which protects them from wind, rain, and other such adverse weather conditions.

(12) Management of Lead Acid Batteries, Major Appliances, Waste Oil and Yard Waste. Occupants of single family and 2 to 4 unit residences, multiple-family dwellings and non-residential facilities and/or properties shall manage lead acid batteries, major appliances, waste oil, and yard waste as follows:

- (A) Lead acid batteries shall be managed through battery retailers. Battery retailers must accept two vehicle batteries per customer per day. A reasonable charge may be accessed by the retailer for this service.

Lead acid batteries will also be handled at the Outagamie County Landfill. Residents of the County may deliver lead acid batteries to the landfill during regular landfill operating hours.

Lead acid batteries cannot be landfilled or incinerated in Outagamie County.

- (B) Major appliances may be delivered to the Outagamie County Landfill during normal landfill operating hours. A reasonable fee will be accessed for each appliance delivered.

Major appliances cannot be landfilled or incinerated in Outagamie County.

- (C) Waste oil shall be brought to a designated collection site. A minimum of one waste oil collection site will be maintained by Outagamie County. Waste oil must be free of all contaminated.

Waste oil cannot be landfilled or incinerated in Outagamie County.

- (D) Yard waste will be managed through a County Composting Program. Residents may deliver yard waste to the Outagamie County landfill during normal operating hours. A reasonable fee will be assessed for each ton of yard waste delivered.

Yard waste must be free of trash and other contaminants. Branches and brush must be cut to a manageable size.

Yard waste cannot be landfilled or burned without energy recovery in Outagamie County.

(13) Preparation and Collection of Recyclable Materials. Attached hereto are current directives of Outagamie County and/or the Solid Waste Division, requiring occupants of all residential households to follow certain steps in the preparation and collection of separated materials as specified in s. 13.11(9) (E) through (O). The same is attached hereto as Exhibit "A".

Outagamie County and/or the Solid Waste Division reserve the right, from time to time, to revise the directives set forth at Exhibit "A" and to further include, exclude or further define acceptable processes and procedures for preparation and collection of separated materials. All such further revisions thereto, as made by Outagamie County and/or the Solid Waste Division, shall thereafter be published by way of legal notice in a local newspaper and/or mailed directly to occupants of residential households, following which all such changes in directives dealing with preparation and collection of recyclable materials shall then be considered adopted herein by reference. Copies of all such revisions shall be kept on file with the Outagamie County Clerk.

(14) Responsibilities of Owners or Designated Agents of Multiple-Family Dwellings. Owners or designated agents of multiple-family dwellings shall do all of the following to recycle the materials specified:

- (A) Provide adequate, separate containers for the recycling materials.
- (B) Notify tenants in writing at the time of renting or leasing the dwelling (and at least semi-annually thereafter) about the established recycling program.
- (C) Provide a designated area where materials will be placed for collection.
- (D) Notify tenants of reasons to reduce and recycle solid waste, which materials are collected, how to prepare the materials in order to meet the processing requirements, collection methods or sites, locations and hours of operation and a contact person or company, including name, address and telephone number.

The requirements of (14) do not apply to the owners or designated agents of multiple-family dwellings if the postconsumer waste generated within the dwelling is treated as a processing facility licensed by the Department of Natural Resources that recovers for recycling the materials specified from solid waste in as pure a form as is technically feasible.

Owners or designated agents of multiple-family dwellings who fail to implement and continually thereafter carry out the requirements of this Section (14) shall be subject to the forfeiture penalties set forth under Section (25) entitled "Enforcement".

(15) Responsibilities of Owners or Designated Agents of Non-Residential Facilities and/or Properties. Owners or designated agents of non-residential facilities and/or properties shall do all of the following to recycle the material specified:

- (A) Provide adequate, separate containers for the recyclable materials.
- (B) Notify in writing, at least semi-annually, all users, tenants and occupants of the properties about the established recycling program.
- (C) Provide for the collection of the materials separated from the solid waste by the users, tenants and occupants and the delivery of the materials to a recycling facility.
- (D) Notify users, tenants and occupants of reasons to reduce and recycle, which materials are collected, how to prepare materials in order to meet the processing requirements, collection methods or sites, location and hours of operation and a contact person or company, including a name, address and telephone number.

The requirements of (15) do not apply to the owners or designated agents of non-residential facilities and/or properties if the postconsumer waste generated within the facility or property is treated at a processing facility licensed by the Department of Natural Resources that recovers for recycling the materials specified from solid waste in as pure a form as is technically feasible.

Owners or designated agents of non-residential facilities and/or properties who fail to implement and continually thereafter carry out the requirements of this Section 15 shall be subject to the forfeiture penalties set forth under Section (25) entitled "Enforcement".

(16) Provide Space for Recycling in Public Buildings. A person or other legal entity in Outagamie County owning and/or occupying a new building or a building that is remodeled or expanded by 50% or more in floor area shall provide a designated area for the separation, temporary storage and collection of solid waste and recyclables either with or adjacent to the building as specified in ILHR 54-62, Wis. Adm. Rule.

(17) Prohibitions on Disposal of Recyclable Materials Separated for Recycling. No person may dispose of, in a solid waste disposal facility or burn in a solid waste treatment facility, any of the materials specified in s. 13.11(9) (E) through (O) which have been separated for recycling, except waste tires may be burned with energy recovery in a solid waste treatment facility.

(18) Licensing of Haulers. No person, corporation or other form of business entity shall engage in the business of hauling recyclables within Outagamie County without being licensed by the Department of Natural Resources under s. NR 502.06, Wis. Adm. Code.

(19) Processing Facilities. Any person, corporation or other form of business entity having recyclables and operating in Outagamie County shall not transport for processing any recyclables to a processing facility unless that facility has self-certified with the Wisconsin Department of Natural Resources under s. NR544.16. Wis. Adm. Code.

(20) Local Government Purchasing of Recycled Content, Multiple Use, Durable Materials, Equipment and Supplies. Outagamie County shall, to the extent practicable, make purchasing decisions to maximize the purchasing of products made from recycled and recovered materials. Purchases shall include 25% recycled content of all paper purchases by 1993 and 40% content of all paper purchases by 1995. Outagamie County shall, to the extent practicable, award contracts for equipment and supplies on the basis of recyclability and ultimate disposition of products to discourage the purchase of single-use disposable products and require purchase of multiple-use, durable products.

(21) Unlawful Removal of Recyclables. It shall be unlawful for any person, corporation or other form of business entity unless under contract with or licensed by the County, to collect or remove any recyclable material that has been deposited or placed at the curb or in a container adjacent to a home or nonresidential building for the purpose of collection of recycling.

Recyclable materials, upon placement at the curb, shall become the property of Outagamie County.

(22) Dumping Provisions. It shall be unlawful for any person, corporation or other form of business entity to dispose of or dump garbage in any street, alley or other public place within Outagamie County or in any receptacles or private property without the owner's consent. No person, corporation or other form of business entity shall place for collection any garbage at the curb not owned by such person, corporation or other form of business entity.

(23) Right to Reject Materials. Any hauler under contract with Outagamie County has the right to reject or leave at the curb any recyclable material that is not prepared according to the specifications in this ordinance or as set forth/explained in education material provided by the County to the service recipients. Materials may also be left if not separated from solid waste, placed in the proper container or are not designated recyclable material for collection. The hauler also has the right to refuse to collect solid waste if it contains recyclable containers and materials. In such cases, the hauler shall notify, in writing, the generator of the materials about the reasons for rejecting the items. The hauler shall also keep a list of such occurrences (including name and location of the generator thereof) and provide it to Outagamie County.

(24) Material Exemptions. Outagamie County reserves the right to designate additional solid waste materials as recyclables or currently collected materials, or as no longer recyclable, in accordance with state laws and to either add or delete them from any collection

services provided by the County. The County shall provide written notice to its service recipients of this change.

(25) Enforcement.

- (A) For the purpose of determining compliance with the provisions of this ordinance, any authorized officer, employee or representative of Outagamie County, as appointed from time to time by the the Solid Waste Division, may inspect recyclable materials separated for recycling, postconsumer waste intended for disposal, recycling collection sites and facilities and collection vehicles relating to recycling activities, which shall be kept confidential when necessary to protect proprietary information. No person, corporation or other form of legal/business entity may refuse access to any authorized officer, employee or representative of Outagamie County who requests access for purposes of said inspection(s) and who presents appropriate credentials. No person, corporation or other form of legal/business entity may obstruct, hamper or interfere with such an inspection.
- (B) Citations may be issued by Outagamie County for any violation of this ordinance, including any part of this ordinance for which a statutory counter-part exists.
- (C) Information Required. The citation shall contain the following:
 - (i) Name and address of the alleged violator.
 - (ii) The factual allegations describing the alleged violation.
 - (iii) The time and place of the offense.
 - (iv) The section of this ordinance as alleged to have been violated.
 - (v) A designation of the offense in such manner as can be readily understood by a person making a reasonable effort to do so.
 - (vi) The time at which the alleged violator shall appear in court.
 - (vii) A statement which, in essence, informs the alleged violator:
 - (a) That a cash deposit, based on the schedule established by the County Board from time to time and on file in the office of the County Clerk and the office of the Division of Solid Waste, be made in cash, money order or check to and deposited with the Clerk of Circuit Courts who shall provide a receipt thereof prior to the time of the scheduled court appearance.
 - (b) That if a deposit is so made, no appearance in court is necessary unless the violator is subsequently summoned.

- (c) That if a cash deposit is made and the alleged violator does not appear in court, the violator will be deemed to have entered a plea of no contest, or, if the court does not accept the plea of no contest, a summons will be issued commanding the violator to appear in court to answer the complaint.
 - (d) That if no cash deposit is made and the alleged violator does not appear in court at the time specified, an action may be commenced to collect the forfeiture.
 - (e) A direction that if the alleged violator elects to make a cash deposit, the statement which accompanies the citation shall be signed to indicate that the statement required under subparagraph vii above has been read. Such statement shall be sent or brought with the cash deposit.
 - (f) Such other information as Outagamie County and/or the Division of Solid Waste deems necessary.
- (D) Procedure. Section 66.119(3), Wis. Stats., relating to a violator's option and procedures on default is hereby adopted and incorporated herein by reference.
- (E) Nonexclusivity.
- (i) Other Ordinance. This section does not preclude the County Board from adopting any other ordinances or providing for the enforcement of any law or ordinance relating to the same or other matter.
 - (ii) Other Remedies. The issuance of a citation hereunder shall not preclude Outagamie County and/or the Solid Waste Division from proceeding under any other ordinance or law or by any other enforcement method to enforce any terms or conditions of this ordinance.
- (F) Penalties/Forfeitures (hereinafter, the term person shall apply to any natural person, any partnership, corporation or any other type of business entity):

Penalties/forfeitures for violating this ordinance may be assessed as follows:

- (i) Any person who violates any provision of this ordinance shall be subject to a forfeiture of not less than \$50 for the first violation thereof, not less than \$100 for a second violation thereof and not more than \$500 for a third and/or subsequent violation thereof.
- (ii) Nothing contained herein shall prohibit an Attorney from acting on behalf of and at the direction of Outagamie County and/or the Solid Waste Division from applying to a Court of competent jurisdiction for a

temporary or permanent injunction, restraining any person from violating any term, condition or covenant of this ordinance.

- (iii) Any person who has violated any term, condition or covenant of this ordinance, and upon conviction thereof (or stipulated forfeiture), in addition to the forfeiture set forth herein, shall pay all costs of prosecution.
- (iv) Any person who violates any provision of this ordinance, and who fails to pay any forfeiture required herein, including any default in payment of such forfeiture and/or costs of prosecution, shall be imprisoned in the County Jail until such forfeiture and costs are paid, but such incarceration shall not exceed ninety (90) days.
- (v) Each violation and each day a violation continues of this ordinance shall constitute a separate offense.
- (vi) Nothing herein contained shall preclude or affect the power of a Sentencing Court to exercise additional authorities granted by the Wisconsin Statutes.
- (vii) That by adoption of this ordinance, the County Board does hereby adopt a cash deposit schedule as follows:
 - (a) \$50 for a first violation of this ordinance.
 - (b) \$100 for a second violation of this ordinance.
 - (c) \$500 for a third and/or subsequent violation of this ordinance.

(G) Enforcement of Unpaid Forfeiture - Suspension of Driver's License

- (i) Adopted herein by reference is Section 66.12, Wis. Stats., in particular, Section 66.12(1)(c) thereof, which allows the Court to utilize Wisconsin Statute Section 800.09(1)(c), Suspension of Defendant's Operating Privileges (driver's license), as a method to enforce compliance with the forfeiture section of this ordinance.

April 29, 1994

OUTAGAMIE COUNTY RECYCLING ORDINANCE

Paragraph 13 - Preparation and Collection of Recyclable Materials

The following requirements apply to the delivery of commingled materials:

- A. Commingled materials may include tin cans, bi-metal cans, aluminum cans, glass containers (clear, brown and green), HDPE plastic liquid containers (#2 plastic, colored or clear), and PET plastic liquid containers (#1 plastic, colored or clear).
- B. Moisture content must be maintained at a minimum.
- C. Commingled materials can **NOT** contain more than 5% glass breakage.
- D. Commingled materials can **NOT** contain more than 2% reject materials.

The following materials are considered to be reject materials and cannot be recycled at the Outagamie County Material Recovery Facility:

- 1. Motor oil containers
 - 2. Lightbulbs
 - 3. Window glass
 - 4. Ceramics and China
 - 5. Disposable diapers
 - 6. Mirrors
 - 7. Pyrex
 - 8. Lead-acid batteries
 - 9. Household batteries
 - 10. #1 and #2 plastic containers which did not previously contain a liquid. Tub type containers are unacceptable.
 - 11. #3 through #7 plastics.
- E. The following are specific requirements which apply to the individual material categories:
- 1. Tin cans must be free of residue and have paper labels removed.
 - 2. Bimetal cans must be free of residue.
 - 3. Aluminum cans must be free of residue. Cans should not be crushed.

Exhibit "A-1"

4. Glass containers must be free of residue and tops.
5. HDPE Plastic (#2) must be free of residue and tops. Only #2 plastic containers accepted are those which previously contained a liquid. **NO MOTOR OIL CONTAINERS ACCEPTED.**
6. PET Plastic (#1) must be rinsed of residue. Only #1 plastic containers accepted are those which previously contained a liquid.

The following requirements apply to the delivery of newsprint (ONP) and corrugated cardboard (OCC):

- A. ONP and OCC can **NOT** contain more than 2% contamination.
- B. Moisture content must be maintained at a minimum.
- C. Paper materials cannot be bundled.
- D. No fiberboard materials may be mixed with ONP and OCC.

Materials may be added to the list of acceptable materials if the County determines that economic markets are available. Before recycling materials are added or eliminated from the list, the County will first make a determination as to the financial impact. Any such proposed changes will be uniform for all municipalities in the County Program.

